

# **PART B - FEE(S) TRANSMITTAL**

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32425 7590 07/17/2007  
**FULBRIGHT & JAWORSKI L.L.P.**  
600 CONGRESS AVE.  
SUITE 2400  
AUSTIN, TX 78701

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I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

Robert E. Hanson	(Depositor's name)
/Robert E. Hanson/	(Signature)
October 4, 2007	(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/820,218	04/06/2004	Phyll Cammack	DEKA:342US	7111
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TITLE OF INVENTION: PLANTS AND SEEDS OF CORN VARIETY I002573

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1400	\$0	\$0	\$1400	10/17/2007

EXAMINER	ART UNIT	CLASS-SUBCLASS
KUBELIK, ANNE R	1638	800-320100

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).  
☒ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.  
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list  
 (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,  
 (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1	Sonnenschein Nath & Rosenthal LLP
2	
3	

## **3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)**

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Monsanto Technology L.L.C.

St. Louis, MO

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☒ Corporation or other private group entity ☐ Government

## **4a. The following fee(s) are submitted:**

- ☒ Issue Fee  
☐ Publication Fee (No small entity discount permitted)  
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## **4b. Payment of Fee(s): (Please first reapply any previously paid Issue fee shown above)**

- ☐ A check is enclosed.  
☐ Payment by credit card. Form PTO-2038 is attached.  
☒ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number 19-3140 (enclose an extra copy of this form).

## **5. Change in Entity Status (from status indicated above)**

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature /Robert E. Hanson/

Date October 4, 2007

Typed or printed name Robert E. Hanson

Registration No. 42,628

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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**PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:  
Phyll Cammack

Serial No.: 10/820,218

Filed: April 6, 2004

For: PLANTS AND SEEDS OF CORN  
VARIETY i002573

Group Art Unit: 1638

Examiner: Kubelik, Anne R.

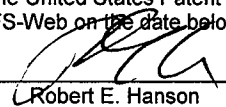
Atty. Dkt. No.: DEKA:342US

Confirmation No. 7111

CERTIFICATE OF ELECTRONIC TRANSMISSION  
37 C.F.R. § 1.8

I hereby certify that this correspondence is being  
electronically filed with the United States Patent and  
Trademark Office via EFS-Web on the date below:

October 4, 2007  
Date

  
Robert E. Hanson

**AMENDMENT UNDER 37 C.F.R. §1.312**

**MS Issue Fee**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This paper is submitted pursuant to the Notice of Allowability mailed July 17, 2007. The instant Amendment is being filed concurrently with the payment of the Issue Fee in the case. The Amendment is made to insert information concerning a biological deposit of seed. A declaration demonstrating that the referenced seed deposit meets the requirements of 37 C.F.R. § 1.801- §1.809 is being filed concurrently herewith.

No fees are believed to be due in connection with the instant paper. However, should such fees be due, consider this paragraph a request and authorization to withdraw the appropriate

fee under 37 C.F.R. §§ 1.16 to 1.21 from Sonnenschein Nath & Rosenthal LLP Account No. 19-3140/DEKA:342US.

## AMENDMENT

### **In the Specification:**

Please amend the specification on page 21, line 5, as follows:

A representative deposit of 2500 seeds of the inbred corn variety designated I002573 has been made with the American Type Culture Collection (ATCC), 10801 University Blvd., Manassas, VA on [(\_\_\_\_\_, \_\_\_\_)]November 9, 2006. Those deposited seeds have been assigned ATCC Accession No. [[- - - -]]PTA-7997. The deposit was made in accordance with the terms and provisions of the Budapest Treaty relating to deposit of microorganisms and was made for a term of at least thirty (30) years and at least five (05) years after the most recent request for the furnishing of a sample of the deposit is received by the depository, or for the effective term of the patent, whichever is longer, and will be replaced if it becomes non-viable during that period.

## CLAIM AMENDMENT

Please amend the claims as follows:

1. (Currently amended) A seed of corn variety I002573, wherein a sample of the seed of the corn variety I002573 was deposited under ATCC Accession No. [[- - - -]]PTA-7997.
2. (Currently amended) A corn plant of corn variety I002573, wherein a sample of the seed of the corn variety I002573 was deposited under ATCC Accession No. [[- - - -]]PTA-7997.
3. (Original) A plant part of the corn plant of claim 2.
4. (Original) The plant part of claim 3, further defined as pollen, an ovule or a cell.
5. (Original) A corn plant expressing all of the physiological and morphological characteristics of the corn plant of claim 2.
6. (Canceled)
7. (Original) A method of producing a male sterile corn plant comprising introducing a nucleic acid molecule that confers male sterility into the plant of claim 2.
8. (Original) A male sterile corn plant produced by the method of claim 7.
9. (Currently amended) A tissue culture of cells of a plant of corn variety I002573, wherein a sample of the seed of the corn variety I002573 was deposited under ATCC Accession No. [[- - - -]]PTA-7997.
10. (Original) The tissue culture of claim 9, wherein the cells are derived from embryos, immature embryos, meristematic cells, immature tassels, microspores, pollen, leaves, anthers, roots, root tips, silk, flowers, kernels, ears, cobs, husks, or stalks.

11. (Currently amended) A corn plant regenerated from the tissue culture of claim 9, wherein the corn plant is capable of expressing all of the physiological and morphological characteristics of corn variety I002573, wherein a sample of the seed of the corn variety I002573 was deposited under ATCC Accession No. [[- - - -]]PTA-7997.

12. (Currently amended) A process of producing corn seed, comprising crossing a first parent corn plant with a second parent corn plant, wherein one or both of the first parent corn plant or the second parent corn plant is a plant of corn variety I002573, wherein a sample of the seed of the corn variety I002573 was deposited under ATCC Accession No. [[- - - -]]PTA-7997, wherein seed is allowed to form.

13. (Currently amended) The process of claim 12, further defined as a process of producing hybrid corn seed, comprising crossing a plant of corn variety I002573 with a second, distinct corn plant, wherein a sample of the seed of the corn variety I002573 was deposited under ATCC Accession No. [[- - - -]]PTA-7997.

14. (Previously presented) The process of claim 13, wherein crossing comprises the steps of:
- (a) planting the seeds of first and second inbred corn plants, one of which plants is said plant of corn variety I002573 and the other of which is said second, distinct corn plant;
  - (b) cultivating the seeds of said first and second inbred corn plants into plants that bear flowers;
  - (c) preventing self pollination of at least one of the first or the second inbred corn plant;
  - (d) allowing cross-pollination to occur between the first and second inbred corn plants; and
  - (e) harvesting seeds on at least one of the first or second inbred corn plants in which self pollination has been prevented, said seeds resulting from said cross-pollination.

15. (Previously presented) A corn plant produced by the method of claim 17.

16. (Previously presented) The corn plant of claim 15, wherein the transgene confers a trait selected from the group consisting of herbicide tolerance, insect resistance, disease resistance, yield enhancement, waxy starch, modified nutritional quality, decreased phytate content, modified fatty acid metabolism, modified carbohydrate metabolism, male sterility and restoration of male fertility.

17. (Currently amended) A method of producing a transgenic corn plant, comprising introducing a transgene into a plant of corn variety I002573, wherein a sample of the seed of the corn variety I002573 was deposited under ATCC Accession No. [[- - - -]]PTA-7997.

18. (Currently amended) A method of producing an inbred corn plant derived from the corn variety I002573, the method comprising the steps of:

- (a) preparing a progeny plant derived from corn variety I002573 by crossing a plant of the corn variety I002573 with a second corn plant, wherein a sample of the seed of the corn variety I002573 was deposited under ATCC Accession No. [[- - - -]]PTA-7997;
- (b) crossing the progeny plant with itself or a second plant to produce a seed of a progeny plant of a subsequent generation;
- (c) growing a progeny plant of a subsequent generation from said seed and crossing the progeny plant of a subsequent generation with itself or a second plant; and
- (d) repeating steps (b) and (c) for an additional 2-10 generations to produce an inbred corn plant derived from the corn variety I002573.

19. (Currently amended) A method of producing a conversion in the corn variety I002573 to express at least one new trait, the method comprising the steps of:

- (a) crossing a first corn plant comprising a locus that confers at least one new trait, with a second plant of the corn variety I002573, a sample of the seed of the corn variety I002573 having been deposited under ATCC Accession No. [[- - - -]]PTA-7997, comprising the conversion that confers the new trait;

- (b) harvesting and planting the seed thereby produced to produce at least one progeny plant of the first filial generation;
- (c) crossing said progeny plant with a plant of the corn variety I002573 to produce seed of a subsequent filial generation, comprising the locus that confers the new trait;
- (d) growing at least one progeny plant of the subsequent filial generation from the seed produced in step (c);
- (e) repeating steps (c) and (d) for at least one additional generation to produce a converted plant of the corn variety I002573, wherein both alleles at substantially all of the genetic loci in the converted plant consist essentially of the allele found at the same locus in corn variety I002573, the plant further comprising the locus that confers the new trait; and
- (f) harvesting the seed of the converted plant.

20. (Previously presented) The method of claim 19, wherein the locus that confers the new trait was produced by genetic transformation.

21. (Previously presented) The method of claim 19, wherein the new trait is selected from the group consisting of herbicide tolerance; insect resistance; disease resistance; yield enhancement; waxy starch; modified nutritional quality; decreased phytate content, modified fatty acid metabolism, modified carbohydrate metabolism; male sterility and restoration of male fertility.

22. (Original) A converted plant of the corn variety I002573 produced by the method of claim 19.

23. (Currently amended) A hybrid corn seed one of whose parents is a plant of the corn variety I002573, a sample of the seed of said corn variety I002573 having been deposited under ATCC Accession No. [[- - - -]]PTA-7997, and wherein the other parent is a plant of a different variety.



24. (Original) A corn plant grown from the seed of claim 23.

## REMARKS

The specification and claims have been amended to insert information concerning a seed deposit. No new matter is added by the amendment.

## CONCLUSION

In view of the foregoing, it is believed that the case is in condition for issuance and such action is respectfully requested. The Office is invited to contact the undersigned at (214) 259-0931 with any questions relating to the referenced patent application.

Respectfully submitted,



Robert E. Hanson  
Reg. No. 42,628  
Attorney for Applicant

SONNENSCHN NATH &  
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Dallas, Texas 75201  
(214) 259-0931

Date: October 4, 2007

**PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:  
Phyll Cammack

Serial No.: 10/820,218

Filed: April 6, 2004

For: PLANTS AND SEEDS OF CORN  
VARIETY I002573

Group Art Unit: 1638

Examiner: Kubelik, Anne R.

Atty. Dkt. No.: DEKA:342US

**DECLARATION OF BIOLOGICAL CULTURE DEPOSIT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

I, Timothy R. Kain, hereby declare:

1. I have been employed by Monsanto Company as a Research Assistant from 1995 to 1997, and since 1997 as a Patent Scientist, having as my primary responsibility the collection and control of information for the legal protection of Monsanto Company proprietary inbreds and hybrids.

2. That the following material, referred to in the specification of the above-referenced application, has been deposited with a depository meeting Budapest Treaty requirements:

**TAXONOMIC DESCRIPTION**

2500 seeds (*Zea Mays*)  
of Corn Variety I002573

**ATCC DEPOSIT NUMBER**

PTA-7997

3. I affirm that should the seed deposit become nonviable or be inadvertently destroyed, I will replace such seed for at least 30 years from the date of the original deposit, or at least 5 years from the date of the most recent request for release of a sample or for the effective life of any patent issued on the above-mentioned application, whichever period is longer.

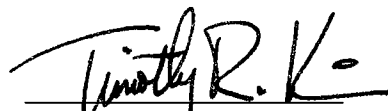
4. That with respect to availability of the seed, I affirm that the deposit will be made under conditions of assurance of:

- (a) ready accessibility thereto by the public if a patent is granted, whereby all restrictions to the availability to the public of the seed so deposited will be irrevocably removed upon the granting of the patent; and
- (b) access to the seed will be available during pendency of the patent application to one determined by the Commissioner to be entitled thereto under 37 C.F.R. § 1.14 and 35 U.S.C. § 122.

5. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States

Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 27 AUGUST 2007

  
Timothy R. Kain